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Letter dated 1 November 2016 from the Secretary-General addressed to the President of the Security Council

In the aftermath of the unrestrained violence which occurred in Juba from 8 to 25 July 2016, and the vicious assaults on both civilians and United Nations staff, I ordered an Independent Special Investigation led by Major General Patrick Cammaert (retired). The Independent Special Investigation was mandated to review the actions of the United Nations Mission in the Republic of South Sudan (UNMISS) in response to both the sexual violence and violence against civilians that occurred in Juba during that period, and the Terrain camp incident.

Please find attached a summary of the Independent Special Investigation highlighting the key findings of the report together with a list of recommendations to the parties concerned (see annex). The recommendations point out issues specific to UNMISS as well as systemic problems which should be addressed in order to implement the civilian protection mandate more efficiently.

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) **Ban** Ki-moon

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Annex

Executive summary of the independent special investigation into the violence in Juba in 2016 and the response by the United Nations Mission in South Sudan

Background

1. The crisis that took place in Juba from 8 to 11 July 2016 saw three days of intense fighting that resulted in the death of many civilians and two peacekeepers of the United Nations Mission in South Sudan (UNMISS) and the collapse of the fragile peace agreement between the President of South Sudan, Salva Kiir, and his former First-Vice President, Riek Machar. The crisis brought unrestrained violence to the capital of the world's youngest nation and the participating fighters left a trail of destruction and suffering in their wake.

2. On 23 August 2016, the Secretary-General established an independent special investigation led by Major General (retired) Patrick Cammaert, mandated to examine two aspects of the crisis in Jubain July 2016: violence against civilians, including sexual violence, within or in the vicinity of the UNMISS headquarters, known as "UN House", and its two adjacent protection of civilian sites, which house more than 27,000 internally displaced persons; and the attack on Terrain camp, a private compound where United Nations personnel, aid workers and local staff were robbed, beaten, raped and killed by armed soldiers. This included determining whether the Mission and its contingents responded appropriately; assessing the United Nations security plans and procedures and the Mission's role in them; and, with regard to the attack on Terrain camp, determining the perpetrators. Under both areas of focus, the Secretary-General mandated the special investigation to put forward recommendations, including remedial actions, with regard to, inter alia, the underperformance of UNMISS personnel, if necessary.

Methodology

3. The special investigation team undertook desk reviews and held meetings in New York, including with humanitarian protection partners. The team travelled to Entebbe, Uganda, and Juba from 9 to 29 September 2016, where 67 interviews were held with numerous witnesses, victims, ministers and officials from the Government of South Sudan, staff from all components of UNMISS, the United Nations country team and humanitarian non-governmental organizations. In Juba, the special investigation team visited the UNMISS headquarters at UN House and its Tomping base, the Juba protection of civilian sites, the Terrain camp, the looted World Food Programme (WFP) warehouse and other locations.

Findings

Before the crisis

4. The return of former First-Vice President Riek Machar to Juba with more than 1,200 armed fighters was pursued as an essential starting point for the implementation of the peace agreement. Despite the security risks, and over the strong objections of the Special Representative of the Secretary-General, international security advisers and generals in the Government army, these

Opposition soldiers were placed less than a kilometre from UN House and the protection of civilian sites, putting internally displaced persons and United Nations personnel in the crossfire should fighting break out. International mediators working with the Government and the Opposition at the time agreed that this was a necessary compromise in order to secure the peace agreement.

5. In the weeks prior to the violence, UNMISS and the humanitarian community saw timely and accurate warning signs of the resumption of hostilities in Juba between the Sudan People's Liberation Army (SPLA) and the Sudan People's Liberation Army in Opposition (SPLA-IO). Notwithstanding the early warning that fighting would take place near UN House, the Mission did not properly prepare for three critical and foreseeable scenarios: (a) First, that fighting along the northern perimeter of UN House would prompt internally displaced persons in protection of civilian site 1 to enter the UN House compound to seek greater protection; second, that the Mission would face significant movement restrictions from the Government, envisaged in many scenarios but never clearly planned for in integrated military and security contingency plans; and third, that UN House would likely be caught in crossfire; watchtowers and defensive positions along the perimeter were poorly prepared and equipped to stop even small arms fire, severely limiting the ability of the Mission to respond when fighting with heavy weapons started.

During the crisis

6. Caught on the frontlines of active conflict, the Mission faced an extremely challenging set of circumstances during the crisis. Artillery, tanks and helicopter gunships were all used, sometimes within metres of UN House. In three days of fighting, two Chinese peacekeepers were killed and several injured, 182 buildings on the UN House compound were struck by bullets, mortars and rocket-propelled grenades and thousands of internally displaced persons fled into UN House from the protection of civilian sites seeking protection.

7. The special investigation found that a lack of leadership on the part of key senior Mission personnel had culminated in a chaotic and ineffective response to the violence.

8. On the civilian side, despite strong efforts from the UNMISS Joint Operations Centre, Mission-wide and integrated coordination was poor before and during the crisis. The Mission's established culture of reporting and acting in silos inhibited effective action during a period in which swift, joint action was essential. The Joint Operations Centre and the Security Information Operations Centre were not co-located, as required by United Nations policy, contributing to a fragmented security response.

9. On the uniformed side, the Force did not operate under a unified command, resulting in multiple and sometimes conflicting orders to the four troop contingents from China, Ethiopia, India and Nepal and ultimately underusing the more than 1,800 infantry troops at UN House. The Force Commander appointed the Chinese Battalion Commander as the Incident Commander, commanding all the forces at UN House in addition to his own battalion. Furthermore, the Force Commander ordered the Incident Commander to retain an explicit and ultimately confusing command link to Sector South headquarters in Tomping, which was physically cut

off from UN House for the duration of the fighting. This confused arrangement, in combination with the lack of leadership on the ground, contributed to incidents of poor performance among the military and police contingents at UN House. This included at least two instances in which the Chinese battalion abandoned some of its defensive positions at protection of civilian site 1 on 10 and 11 July. The performance of the Nepalese formed police unit in stopping looting by some internally displaced persons inside UN House and controlling the crowd was inadequate.

Roles of the Government and the Opposition

10. The special investigation emphasizes that the responsibility for the protection of South Sudanese civilians rests first and foremost with the Government of South Sudan. During the crisis, Government and Opposition forces fired indiscriminately, striking United Nations facilities and protection of civilian sites, and attacked civilians, resulting in the deaths of more than 20 internally displaced persons in the protection of civilian sites and injuries to dozens more. Government soldiers also perpetrated the attack on Terrain camp, a charge that the Government did not dispute in a meeting with the Special Investigation team on 15 September. Government forces have been implicated in the sexual violence against civilians around the protection of civilian sites in the aftermath of the fighting.

Terrain camp incident

11. The Mission failed to respond to the situation at Terrain camp, located 1.2 kilometres from UN House. When Government soldiers forcibly entered the camp on 11 July, there were approximately 70 civilians in the camp. This included Terrain camp staff and residents, of whom five were United Nations personnel whom the Mission had a clear mandate to protect, as well as more than a dozen humanitarian aid workers who fell within the security framework of the United Nations and the Mission's broader mandate to protect civilians. At approximately 1530 hours, when the soldiers began looting and forcing their way into the accommodations, the residents immediately notified United Nations security and UNMISS. During the attack, civilians were subjected to and witnessed gross human rights violations, including murder, intimidation, sexual violence and acts amounting to torture perpetrated by armed Government soldiers.

12. The Joint Operations Centre made multiple requests to stand up a quick-reaction force to respond but each UNMISS contingent turned down the request, indicating that its troops were fully committed. The situation at UN House remained chaotic at this time, with thousands of internally displaced persons in the staff accommodation area, armed men still threatening the perimeter of protection of civilian site 3 and large numbers of armed Government soldiers still on Yei road in front of the main gate of UN House. Even after the Government's highest-ranking general provided a liaison officer to meet an UNMISS quick-reaction force at a checkpoint near the main gate to facilitate its movement to Terrain camp, no response team materialized.

13. By approximately 1900 hours, members of the South Sudan National Security Service had extracted the majority of residents at the Terrain camp. Three international female humanitarian workers were left behind. The Mission learned

that they were unaccounted for by 2040 hours but made no attempt to send a force to extract the three women on the evening of 11 July. Between 2100 and 2200 hours, one of the three women managed to call United Nations security. The security officer, whom the special investigation was unable to identify, was dismissive of her appeal for assistance and did not call her back when her phone credit expired. United Nations security did not log this call. While the UNMISS Joint Operations Centre worked through the night to prepare plans to launch a quick-reaction force at first light, no team was deployed. The three women remained overnight at the Terrain camp, as well as about 20 Terrain camp staff in several locations around the camp. A private security company, dispatched by a non-governmental organization, extracted the three remaining female humanitarian workers at approximately 0700 hours on 12 July.

Sexual violence

14. The weeks after the fighting also saw an increase in sexual violence against civilians in and around the protection of civilian sites in Juba. The special investigation reviewed several reports from the media and non-governmental organizations of sexual violence, particularly around the protection of civilian sites, alleging that peacekeepers failed to respond to incidents of sexual violence occurring directly in front of them on 17 and 18 July. While these incidents of sexual violence most certainly occurred, the special investigation was unable to verify the allegations regarding the response by the peacekeepers. The special investigation received other information, however, that suggests poor performance by peacekeepers in protecting civilians from sexual violence in the vicinity of the protection of civilian sites. On at least one occasion on 2 September, attackers assaulted a woman just metres away from the entrance to protection of civilian site 1, in plain sight of UNMISS troops and United Nations police. Despite the woman's screams, they did not react. UNMISS staff officers in the area intervened and prevented a further assault.

15. After the crisis, the Force and police components continued to display a risk-averse posture unsuited to protecting civilians from sexual violence and other opportunistic attacks. More than two months after the crisis, the Mission still does not conduct regular dismounted (on foot) patrols, standing patrols or patrols outside its perimeter at night. When the Mission does conduct patrols, its soldiers peer out from the tiny windows of armoured personnel carriers, an approach ill-suited to detecting perpetrators of sexual violence and engaging with communities to provide a sense of security.

Looting

16. The end of the fighting brought widespread looting to areas around UN House. WFP had requested UNMISS force protection for its compound and main warehouse prior to the crisis. The Mission did not provide this protection and $29 million worth of food, equipment and supplies was looted over more than three weeks. Similarly, the warehouse of the Food and Agriculture Organization of the United Nations that contained seeds and agricultural equipment was looted.

Challenges relating to the protection of civilians

17. The Mission continues to face challenges in providing security in and around the protection of civilian sites. As highlighted by the United Nations board of inquiry for Malakal, protecting the protection of civilian sites — effectively small cities of thousands of people — is beyond the capability of UNMISS or any peacekeeping mission and a task that raises unreasonable expectations. The Mission recognizes, however, that the protection of civilian sites will likely remain for some years and that UNMISS has a key role in providing security and maintaining their civilian character. The protection of civilian sites at UN House have been surrounded by thick bush in some places, making the observation of criminal activities from perimeter watchtowers difficult, if not impossible. Porous perimeters with numerous holes allow internally displaced persons to easily smuggle weapons in and out of the sites.

18. The special investigation found that the lack of preparedness, ineffective command and control and a risk-averse or "inward-looking" posture resulted in a loss of trust and confidence, particularly by the local population and humanitarian agencies, in the will and skill of UNMISS military and police to be proactive and show a determined posture to protect civilians under threat, including from sexual violence and human rights violations.

Recommendations

19. On the basis of the findings and conclusions of the special investigation, the following actions are recommended:

To the United Nations Secretariat

(a) The Department of Peacekeeping Operations, the Department of Field Support and the Executive Office of the Secretary-General should address the failure by peacekeepers to protect civilians. Recognizing that failure by peacekeepers to act when civilians are attacked rises above the level of simple underperformance, the Secretariat should draw on the thorough and systematic follow-up procedures established to address allegations of sexual exploitation and abuse by peacekeepers. Inaction by peacekeepers when civilians are attacked within one kilometre of a peacekeeping base should be promptly investigated and peacekeepers, commanders and relevant troop-contributing countries should be held accountable for failures to protect. Discussions with troop- and police-contributing countries will be critical to establishing clear expectations on all sides;

(b) The Department of Peacekeeping Operations and the Department of Field Support should promptly develop an action plan with short timelines that outlines the key actions required to restore the credibility of both the United Nations and UNMISS and regain the trust and confidence of national and international partners in the Mission's will and ability to fully implement its mandate to protect civilians and United Nations staff. The status of the implementation of the recommendations of the special investigation should be assessed within three months of the presentation of the report to the Secretary-General and appropriate follow-up measures should be taken to ensure swift implementation;

(c) The Department of Safety and Security, relevant humanitarian agencies and non-governmental organizations should ensure clear and country-specific expectations and obligations;

(d) The Department of Peacekeeping Operations, including its Office of Military Affairs, should take the following steps:

(i) Provide clear guidance and direction to new incoming Force Commanders on the vision and expectations of United Nations Headquarters with respect to the implementation of the mandate, the rules of engagement and the use of force. It should also consider reintroducing a written Force Commander directive with instructions and guidance on key elements of the work of a Force Commander's at the start of a Force Commander's tenure;

(ii) Ensure that all UNMISS battalion commanders, key battalion staff officers and military staff officers have a working command of English;

(iii) Establish and deploy a mobile training support team of experienced peacekeepers and officers from troop-contributing countries, including the UNMISS troop contributors, to train battalion officers on the UNMISS mandate, the rules of engagement, the use of force and challenges in peacekeeping; these teams should use a scenario training concept, including training on sexual violence, based on Department of Peacekeeping Operations and Department of Field Support guidance and training on the protection of civilians;

(e) The Department of Peacekeeping Operations and the Department of Field Support should increase support for existing effective training programmes for contingent commanders and female military and police officers;

(f) The Department of Peacekeeping Operations and the Department of Field Support should revisit the current mentoring programmes for Force Commanders and Deputy Force Commanders to provide scenario training on protection of civilians, including from conflict-related sexual violence, and make it more mission-oriented and less Headquarters-focused;

(g) The Departments of Peacekeeping Operations, Field Support and Safety and Security should ensure that missions have rigorous contingency plans in place that are regularly rehearsed through table-top exercises and rehearsals. All missions should regularly conduct table-top exercises and rehearsals. These plans should be revisited following any significant change in the environment and/or in the mandate;

(h) Provide clarity on the implementation of Security Council resolution 2304 (2016), particularly on violations of the status-of-forces agreement, restrictions on freedom of movement and use of force ("robust action") for UNMISS forces and the planned Regional Protection Force. Concerns about two types of forces in UNMISS with a deployment of a Regional Protection Force should be addressed through clear orders and statements on "One Mission, One Force", with UNMISS troops and the Regional Protection Force having the same authorization to use force under the same rules of engagement and freedom of movement directives;

To the United Nations Mission in South Sudan

(i) Together with the Department of Peacekeeping Operations, the Department of Field Support and the troop-contributing countries concerned, address and implement as soon as possible relevant recommendations of the special investigation into the 16 to18 February 2016 attack on the UNMISS protection of civilian site in Malakal (31 May 2016) and the United Nations board of inquiry on the circumstances of the clashes that occurred at the protection of civilian site in Malakal (25 June 2016);

(j) Immediately change how UNMISS troops implement their mandate to protect civilians from physical violence, including sexual violence, by enforcing a forward-leaning, highly mobile posture; conducting robust, dismounted day and night patrolling; dominating areas around the protection of civilian sites; and providing adequate protection aimed at preventing and ending human rights violations and abuses of civilians;

(k) Regularly conduct scenario-based training and rehearsals on mandate implementation, the use of rules of engagement and directives on the use of force; on integrated contingency plans, including evacuation and extraction, with key actors to facilitate preparedness for worst-case and most dangerous scenarios; and on the division of responsibilities among the Force, United Nations police and United Nations security on the security of the protection of civilian sites, including but not limited to handover procedures from formed police units to the Force;

(l) Revise operational and tactical arrangements in Juba to better facilitate crisis management;

(m) The Force Commander should ensure that integrated dismounted patrols are conducted when possible to include (female) military, police and civilian sections such as human rights and women's protection advisers in areas around the protection of civilian sites, UN House and other locations as appropriate;

(n) Mission support should work with United Nations security to ensure preparedness for potential crises, including:

(i) Building shelters to protect from direct and indirect fire in close proximity to working spaces or sleeping accommodation in UN House;

(ii) Improving trauma care and medical evacuation capabilities in UN House to send a strong message of support to UNMISS personnel and, if needed, temporarily fill gaps in such care and capabilities by hiring from the civilian market;

(o) Mission support should work with the Force, United Nations police and United Nations security to ensure sufficient security infrastructure for the protection of civilian sites;

(p) The Mission Chief of Staff should revisit crisis response coordination arrangements and establish an integrated operations centre incorporating all actors in UN House (military, United Nations police, United Nations security and formed police units) that are co-located with but separate from the Joint Operations Centre, which has no tasking authority;

(q) The principal security adviser should ensure that United Nations agency, funds and programme security needs are appropriately prioritized in security planning. He should also ensure that United Nations security personnel are aware of their responsibilities to non-UNMISS personnel under the United Nations security management system and the Saving Lives Together framework and that failures to take the security concerns of United Nations agencies and humanitarian non-governmental organizations seriously will result in reprimand and, where necessary, dismissal;

To the Government of South Sudan

(r) Ensure that the Government investigation into the attack on Terrain camp is transparent, swift and credible, with a process that holds perpetrators to account. Make clear and public statements from the highest levels of military and political authority that violence and attacks on humanitarian actors, aid workers and civilians will not be tolerated, are illegal and will be prosecuted and punished;

To the Security Council

(s) Utilize the full spectrum of Security Council members' authority to address restrictions on freedom of movement, violations of the status-of-forces agreement and obstructions in the medical evacuation of United Nations personnel. These restrictions endanger lives and paralyse the mission. Security Council members should put increased political and economic pressure on countries that obstruct the implementation of Council mandates, including South Sudan;

(t) Recognize that the role of the Mission in providing security and protection cannot be separated from its political role. The UNMISS Special Representative of the Secretary-General should have the full and united support of the Security Council in playing a more proactive role in engaging with the parties;

To troop- and police-contributing countries

(u) Confirm to the Department of Peacekeeping Operations and the Department of Field Support in writing (compact) that troops are willing and able to conduct dismounted patrols, including standing patrols by day and night outside the perimeter of United Nations compounds and protection of civilian sites in surrounding areas as ordered by the Force Commander; use the rules of engagement to the fullest extent; improve interaction with the local population; and implement the mandate to protect civilians, humanitarian personnel and United Nations staff. Troop- and police-contributing countries should also ensure that commanders on the ground are trained and instructed accordingly and held accountable for underperformance by the Department of Peacekeeping Operations;

(v) All junior and senior commanders should conduct scenario training on the mandate and rules of engagement, and formed police unit commanders should be trained on the directives on the use of force during their predeployment training. Troop-contributing and police-contributing countries should be required to provide the Department of Peacekeeping Operations and the Department of Field Support with their predeployment training programmes, including the curriculum for these training activities;

(w) Police-contributing countries should send more female police officers to UNMISS to carry out community-policing activities and to reach out to victims and survivors of sexual violence.